

REMARKS

The Final Office Action dated October 19, 2004, has been received and carefully considered. Claims 1-26 are pending in the present application. It is believed that this Response, in conjunction with the following remarks, place the application in immediate condition for allowance. Accordingly, favorable reconsideration of the application is respectfully requested

Applicants note with appreciation the indication on page 12 of the Final Office Action that claims 5, 6, 15 and 21-26 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicants have opted to defer rewriting the above-identified claims in independent form pending reconsideration of the arguments presented below with respect to the rejected independent claims.

I. **THE OBVIOUSNESS REJECTION OF CLAIMS 1-4, 7-14, AND 16-20**

On page 2 of the Final Office Action, claims 1, 4, 7-13 and 16-20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Banerjee *et al.* (IEEE Communications Magazine, Vol. 39, Issue 1, January 2001, Pages 144-150) (hereinafter “Banerjee”) in view of Martin (U.S. Published Patent Application No. 09/861,167) (hereinafter “Martin”). On page 10 of the Final Office Action claims 2, 3 and 14 were rejected under 35 U.S.C. §103(a) as being unpatentable over Banerjee in view of Martin, as applied to claims 1, 4, 7-13 and 16-20, and further in view of the User Network Interface (UNI) 1.0 Signaling Specification (OIF2000-125.3, December 2000, <http://www.cse-ohio-state.edu/~jain/oif/ftp/oif2000.125.3.pdf>) (hereinafter “UNI 1.0”). These rejections are hereby respectfully traversed.

As stated in MPEP § 2143, to establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify

the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

The Banerjee, Martin, and UNI 1.0 references have respective dates of January, 2001, May 18, 2001, and December 8, 2000. Thus, the Banerjee, Martin, and UNI 1.0 references have respective effective dates of January, 2001, May 18, 2001, and December 8, 2000.

Applicants respectfully submit that the invention disclosed and claimed in the present application was conceived prior to December 8, 2000. Applicants also respectfully submit that they were duly diligent in preparing and filing the present application from the date of conception of the invention disclosed and claimed in the present application to the filing date of the present application (i.e., June 28, 2001). Applicants support the above-stated submissions with inventor declarations under 37 C.F.R. § 1.131, which are submitted herewith, and which contain a showing of facts that clearly establish the above-stated submissions. Accordingly, the Banerjee, Martin, and UNI 1.0 references are not proper prior art references for application against the claims of the present application.

In view of the foregoing, it is respectfully requested that the aforementioned anticipation rejection of claims 1-4, 7-14 and 16-20 be withdrawn.

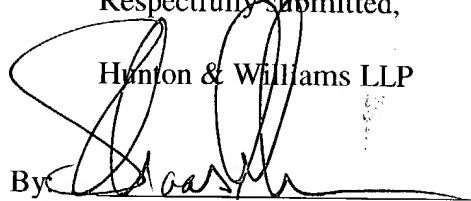
II. CONCLUSION

In view of the foregoing, it is respectfully submitted that the present application is in condition for allowance, and an early indication of the same is courteously solicited. The Examiner is respectfully requested to contact the undersigned by telephone at the below listed

telephone number, in order to expedite resolution of any issues and to expedite passage of the present application to issue, if any comments, questions, or suggestions arise in connection with the present application.

To the extent necessary, a petition for an extension of time under 37 CFR § 1.136 is hereby made.

Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-0206, and please credit any excess fees to the same deposit account.

Respectfully submitted,
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